

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the matter of:

Unbundled Access to Network Elements

Review of the Section 251 Unbundling  
Obligations of Incumbent Local Exchange  
Carriers

WC Docket No. 04-313

CC Docket No. 01-338

**FILING OF RECORD AND WAIVER REQUEST OF THE CALIFORNIA  
PUBLIC UTILITIES COMMISSION**

The California Public Utilities Commission Staff respectfully submits the data and record underlying its staff report in response to the August 20, 2004 released Order and Notice of Proposed Rulemaking (Interim Order and NPRM), FCC 04-179, 69 Federal Register 55128 (September 13, 2004) seeking evidence at a granular level on issues related to the development of final network unbundling rules.

The California Public Utilities Commission Staff also requests any waivers necessary to file evidence from its TRO proceeding in CD-ROM format only.

We have included an inventory of the associated data and record in this electronic filing. A hard copy of this pleading and the record referenced are being filed separately by CD-ROM. The CD-ROMs will be available for inspection at the FCC's headquarters.

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## **I. Background**

On October 4, 2004, the California Public Utilities Commission submitted to the FCC a Staff Report on the Investigation Concerning Competitive Local Carriers' Deployment of Facilities. In an accompanying cover letter, we stated that California would be submitting, under separate cover, the report's supporting documentation in CD-ROM format with the appropriate filing waivers.

## **II. Request for Waiver of Filing Requirements**

Due to the voluminous nature of the TRO proceedings' records, and the cost and time associated with duplicating and filing same, the California Public Utilities Commission respectfully requests, on behalf of its staff, a waiver pursuant to FCC rule 1.3<sup>1</sup> of the filing requirements in FCC rules 1.51 and 1.419<sup>2</sup> to allow it to file its TRO proceedings' data and records in CD-ROM format only.

Pursuant to FCC rule 1.3, the Commission may waive its rules for good cause. Good cause may be found when special circumstances exist to warrant a deviation from the general rule<sup>3</sup>, or where circumstances make strict compliance inconsistent with the public interest.<sup>4</sup> In this matter, good cause exists simply based on the sheer volume, time, and expense involved with submitting California's *TRO* proceedings' records in paper format. Moreover, the California Public Utilities Commission staff spent considerable time in compiling the CDs and ensuring that they accurately represent the record from each *TRO* proceeding. Finally, by allowing California to submit its records on CD, the Commission avoids the prospect of being inundated with such records in piecemeal fashion by the participating parties. This is not to say that California does not expect parties to provide comments to the *NPRM* and to include therein additional comments on California's *TRO* proceedings.

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<sup>1</sup> 47 C.F.R. § 1.3 (2004).

<sup>2</sup> 47 C.F.R. §§ 1.51 and 1.419 (2004).

<sup>3</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert denied* 409 U.S. 1027 (1972).

<sup>4</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166.

### **III. Inventory of Data and Record**

The following list of data, exhibits, and proceeding transcripts have been referenced in the California Public Utilities Commission Staff Report on Investigation Concerning Competitive Local Carriers' Deployment of Facilities and are included on CD-Rom to be submitted to the FCC. Data and exhibits containing confidential data are separated from public data and can only be viewed by those agreeing to the Protective Order by signature.

#### **Confidential Appendices to Staff Report**

*(Redacted from October 4, 2004 Initial Comment)*

- Appendix 1: Maps Showing Distribution of UNE-L CLEC Switch Deployment in SBC Service Territory (CONFIDENTIAL)
- Appendix 2: Maps Showing Distribution of UNE-L CLEC Switch Deployment in Verizon Service Territory (CONFIDENTIAL)

#### **Proceeding Exhibits**

- Exhibit 1C and attachments (CONFIDENTIAL)
- Exhibit 2C and attachments (CONFIDENTIAL)
- Exhibit 3 and attachments
- Exhibit 4C and attachments (CONFIDENTIAL)
- Exhibit 10 and confidential attachments (CONFIDENTIAL)
- Exhibit 11C and attachments (CONFIDENTIAL)
- Exhibit 42 and attachments (CONFIDENTIAL)
- Exhibit 50 and attachments (CONFIDENTIAL)
- Exhibit 93C and attachments (CONFIDENTIAL)
- Exhibit 94C and attachments (CONFIDENTIAL)
- Exhibit 103 and attachments
- Exhibit 105C
- Exhibit 106
- Exhibit 116

## **Inventory of Data and Record (continued)**

### **Proceeding Exhibits (continued)**

- Exhibit 119
- Exhibit 120C and attachments (CONFIDENTIAL)
- Exhibit 123C and attachments (CONFIDENTIAL)
- Exhibit 127
- Exhibit 128
- Exhibit 132 and attachments
- Exhibit 133
- Exhibit 134C (CONFIDENTIAL)
- Exhibit 135
- Exhibit 137C attachments (CONFIDENTIAL)
- Exhibit 139C (CONFIDENTIAL)
- Exhibit 144C (CONFIDENTIAL)
- Exhibit 163C (CONFIDENTIAL)
- Exhibit 164C (CONFIDENTIAL)
- Exhibit 187
- Exhibit 188C (CONFIDENTIAL)
- Exhibit 190C (CONFIDENTIAL)
- Exhibit 191C and attachments (CONFIDENTIAL)
- Exhibit 194C (CONFIDENTIAL)
- Exhibit 195C (CONFIDENTIAL) *SEPARATE CONFIDENTIAL CD-ROM*

### **Proceeding Transcripts**

- Transcript Volume 51
- Transcript Volume 61
- Transcript Volume 66
- Transcript Volume 68

### **Proceeding Opening Briefs**

- AT&T Opening Brief Part I and Part II (CONFIDENTIAL)

## **Inventory of Data and Record (continued)**

### **Proceeding Opening Briefs (continued)**

- Cal Tel Opening Brief
- MCI Opening Brief (CONFIDENTIAL)
- Pure UNE-P Opening Brief
- Sprint Opening Brief
- SBC Opening Brief (CONFIDENTIAL)
- Verizon Opening Brief

### **Miscellaneous References**

- Workshop Report on Loop & Transport December 11, 2003
- SBC California Tariffs (available online at: [http://www.sbc.com/Large-Files/RIMS/California/Network\\_and\\_Exchange\\_Services/ca-ne-06.pdf](http://www.sbc.com/Large-Files/RIMS/California/Network_and_Exchange_Services/ca-ne-06.pdf))
- Telepacific Tariffs (available online at <http://www.telepacific.com/aboutTelePacific/tariffs.asp>)
- Verizon California Tariffs (available online at: [https://retailgateway.bdi.gte.com:1490/grid\\_main.asp?optState=CA](https://retailgateway.bdi.gte.com:1490/grid_main.asp?optState=CA))

## **IV. Conclusion**

The California Public Utilities Commission Staff respectfully submits that it has shown good cause for the Commission to grant a waiver. The California Staff appreciates the opportunity to provide its record on the issues raised in the FCC's Triennial Review Order Proceeding.

Respectfully Submitted

/s/ Gretchen Dumas

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October 19, 2004